

California Victim Compensation and Government Claims Board

Open Meeting Minutes

July 21, 2005

The California Victim Compensation and Government Claims Board convened its regular session at the call of Fred Aguiar, Secretary, State and Consumer Services, at the State Board of Equalization, Room 121, 450 "N" Street, Sacramento, California, on Thursday, July 21, 2005, at 10:00 a.m. Also present were Board members Windie Scott, Deputy State Controller, acting for and in the absence of Steve Westly, Controller and Michael Ramos, San Bernardino County District Attorney.

Board staff present included Karen McGagin, Executive Officer; Tom O'Connor, Chief Deputy Executive Officer; Kathleen Andleman, Chief Counsel; Tim Eldred, Manager, Government Claims Program; and Missy Carrick, Board Liaison, recorded the meeting.

The Board meeting commenced at 10:01 a.m. with the pledge of allegiance.

MINUTES

The Board voted to adopt the minutes of the June 16, 2005 Board meeting. Mr. Ramos abstained from voting.

GOVERNMENT CLAIMS PROGRAM

Item 1 Government Claims Consent Agenda

The Board voted to adopt the staff recommendations on the claims listed on the Government Claims Program Consent Agenda with the following change:

Item 150 **Claimant: David Keast** **G538162**

The Board approved the request of staff to continue claim G538162 to the August 18, 2005 meeting.

Item 151 **Claimant: Tonia Lediju** **G542341**

Ms. Tonia Lediju addressed the Board on claim G554843 and requested that the Board approve the claim.

Ms. Susan Tinsley, Commander, appeared on behalf of the California Highway Patrol and reported that the Department feels that Ms. Lediju is entitled to the money because personnel staff approved the mandatory overtime pay.

Chief Counsel Kathleen Andleman reported that the law prohibits the Board from approving Ms. Lediju's request.

After much discussion, the Board voted to adopt the staff recommendation and deny the claim.

Item 184 **Claimant: City of Riverside** **G550420**

The Board approved the request of staff to continue claim G550420 to the August 18, 2005 meeting.

Item 363 **Claimant: Marion Knight** **G554843**

The Board approved the staff request to take no action on claim G554843 at this time.

Item 436 **Claimant: Galoust Egal** **G554323**

Staff changed its recommendation from deny to grant/reject for claim G554323 and the Board adopted the recommendation.

Total Claims	Claims Rejected	Claims Allowed in Whole or Part	Claims Allowed	
			Paid via Gov. Code §965	Paid via Claims Bill
436	288	148	45	103

Item 2 **CLAIMANT: BDO Seidman, LLP** **G551249**

Mr. Michael Lumbard, Senior Counsel, appeared on behalf of the Department of Health Services (DHS), and reported that DHS does not currently have the appropriation to pay the claim because it has been extinguished by time. He reported that the services were rendered, but the contract was never signed.

Bill Donovan, Legal Counsel, appeared on behalf of BDO Seidman, LLP.

After some discussion, the Board referred the item back to staff for additional analysis based on DHS's change in terms of the recommendation and to analyze whether or not the claim can be paid pursuant to Government Code section 965, agency pay.

Item 3 **CLAIMANT: Novell Corporation** **G554836**

Ms. DeeDee Andris, Policy Analyst, Procurement and Contracts Division, appeared on behalf of the Department of Transportation.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$315,527.50 to be paid pursuant to Government Code section 965.

Item 4 **CLAIMANT: U.S. Department of Interior, Bureau of Land Management** **G545887**

The Board voted to adopt the staff recommendation to partially allow the claim in the amount of \$163,886.10 to be paid pursuant to Government Code section 965.

Item 5 **CLAIMANT: Robert Guinane** **G552718**

Mr. Kurt Henke, President of IAFF Local 1186, addressed the Board on behalf of Robert Guinane who could not attend the meeting due to illness. Mr. Henke requested that the Board approve Mr. Guinane's request for reimbursement of deductions made from his retirement benefits to pay for private health coverage from January 1998 to October 2004 because he was unaware of the benefit available to him as a retiree through the California Public Employee's Retirement System (CalPERS).

Nancy Pope, Manager, Member of Health Services, appeared on behalf of the CalPERS and reported that Mr. Guinane was mailed a letter notifying him of the benefits available and CalPERS did not receive a reply from Mr. Henke.

The Board voted to adopt the staff recommendation to reject the claim.

Item 6 **CLAIMANT: Oakland Private Industry Council** **G550304**

Ms. DeeDee Andris, Policy Analyst, Procurement and Contracts Division, and Oliva Fonseca, Deputy Director, Civil Rights, appeared on behalf of the Department of Transportation.

Melbra Watts, Director of Administrative Services, and Art Shanks, Project Director, appeared on behalf of the Oakland Private Industry Council along with their attorney Geoffrey Gibbs.

After much discussion, the Board voted to adopt the staff recommendation to allow the claim in the amount of \$450,192.50 to be paid pursuant to Government Code section 965.

Item 7 **CLAIMANT: Pacific Bell Telephone Company, dba SBC** **G549573 & G549611**

The Board approved the staff request to continue this item to the August 18, 2005 meeting.

Item 8 **CLAIMANT: Edwin's Prescription Pharmacy** **G552325**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$43,797.20 to be paid pursuant to Government Code section 965.

Item 9 **CLAIMANT: Bilateral Credit Corporation/Logisticare** **G545145, G545146, G545148, G545150, G545152, G545153, G545156, G545157, G545158, G545159, G545160, G545161, G545163, G545170, G545171, G545172, G545175**

The Board voted to adopt the staff recommendation to allow in full claims G545170, G545171 and partially allow claims G545146, G545150, G545152, G545153, G545156, G545157, G545158, G545159, G545160, G545163, G545172 and G545176 in the total amount of \$14,910.00 paid pursuant to Government Code section 965 and reject claims G545145, G545148, G545161 and G545168.

Item 10 **CLAIMANT: Edwin S. Babcock and Sons, Inc.** **G549950**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$8,741.00 and paid pursuant to Government Code section 965.

Discharge from Accountability for Uncollectible Accounts

Item 11 Tim Eldred, Manager, Government Claims Program, presented the "Discharge from Accountability for Uncollectible Accounts pursuant to Government Code section 13940, et seq."

The Board voted to adopt the staff recommendation to allow the Discharge from Accountability for Uncollectible Accounts in the amount of \$28,258,590.90 pursuant to Government Code section 13940, et seq.

Item 12 **CLAIMANT: Tommy Simmons, III (Penal Code 4900)** **G543480**

Deputy Attorney General Michael Farrell appeared on behalf of the Attorney General's Office.

The Board voted to adopt the proposed decision to deny the claim pursuant to Penal Code sections 4900 et seq.

Item 13 **CLAIMANT: Kenneth Faulkner (Penal Code 4900)** **G539298**

Deputy Attorney General Jennifer Poe, appeared on behalf of the Attorney General's Office and requested the Penal Code sections cited on page one of the proposed decision be changed to Penal Code, §§ 664 and 208, subd. (b).

The Board voted to adopt the proposed decision to deny the claim pursuant to Penal Code sections 4900 et seq. with the modification to the statutory citations on page one as requested.

Item 14 **R Systems, Incorporated** **(RFP) HCD 2240-32 54068**

Kathleen Andleman, Chief Counsel, presented the "Dismissal Without Further Hearing of the Protest of R Systems, Incorporated Request for Proposal for (RFP) HCD 2240-32."

The Board voted to adopt the staff recommendation to dismiss the protest without further hearing.

Item 15 **Technical Consultants International** **(IFB) No. 54072**

Kathleen Andleman, Chief Counsel, presented the "Dismissal Without Further Hearing of the Protest of Technical Consultants International Invitation for Bid (IFB) No. 54072."

The Board voted to adopt the staff recommendation to dismiss the protest without further hearing.

Item 16 **Scan Optics, Incorporated** **(IFB) No. 54196**

Kathleen Andleman, Chief Counsel, presented the "Dismissal Without Further Hearing of the Protest of Scan Optics, Incorporated Invitation for Bid (IFB) No. 54196."

The Board voted to adopt the staff recommendation to dismiss the protest without further hearing.

VICTIM COMPENSATION PROGRAM

The Board commenced the Victim Compensation Program portion of the meeting at 11:11 a.m.

The Executive Officer reported on the following:

- California District's Attorney's Association Meeting
- Federal Grant Training
- Victim Witness Coordinating Council Compensation Committee to Meet
- New Pilot Aims to Streamline Claims Process
- CaRES System Development Moves Forward

CONTRACT REPORT

Ms. McGagin reported on the "Contracts Report" dated June 2005.

REQUESTS FOR RECONSIDERATION

The Board voted to adopt the staff recommendations to allow the requests for reconsideration for agenda item numbers 1 through 14, deny requests for reconsideration for agenda item numbers 15 through 18 and 20 through 33, continue item 19, and deny requests for reconsideration after Board action on a proposed decision for agenda item numbers 34 through 46.

Item 15	CLAIMANT	706533V
Item 16	CLAIMANT	803016V
Item 17	CLAIMANT	804065V
Item 18	CLAIMANT	807439V
Item 19	CLAIMANT	807697V
The Board continued this item to the August 18 meeting.		
Item 20	CLAIMANT	808053V
Item 21	CLAIMANT	809630V
Item 22	CLAIMANT	814167V
Item 23	CLAIMANT	815017V
Item 24	CLAIMANT	817655V
Item 25	CLAIMANT	820112V
Item 26	CLAIMANT	823144V
Item 27	CLAIMANT	826101V
Item 28	CLAIMANT	835429V, 835437V, 835438V & 835439V
Item 29	CLAIMANT	838208V
Item 30	CLAIMANT	840359V
Item 31	CLAIMANT	849908V
Item 32	CLAIMANT	859973V
Item 33	CLAIMANT	861725V
Item 34	CLAIMANT	008405V
Item 35	CLAIMANT	629274V
Item 36	CLAIMANT	691877V & 691874V
Item 37	CLAIMANT	707178V
Item 38	CLAIMANT	766430V
Item 39	CLAIMANT	773541V

Item 40	CLAIMANT	774421V
Item 41	CLAIMANT	779868V
Item 42	CLAIMANT	781038V
Item 43	CLAIMANT	789336V
Item 44	CLAIMANT	794142V
Item 45	CLAIMANT	803090V
Item 46	CLAIMANT	035936V

CLAIMS FOR WHICH APPEALS WERE WITHDRAWN OR DEEMED TO BE WITHDRAWN

The Board voted to adopt the staff recommendations on the balance of claims for which appeals were withdrawn or deemed to be withdrawn under California Code of Regulations, Title 2, Section 647.35 and action on claims for which a hearing was denied under California Code of Regulations, Title 2, Section 647.20.1 for agenda item numbers 47 through 96.

CLOSED EXECUTIVE SESSION (GC § 11126(c)(3) and 11126(e)(1))

Pursuant to Government Code sections 11126(c)(3), and 11126(e)(1) the Board adjourned into a closed Executive Session with the Board's Executive Officer, Chief Counsel at 11:18 a.m. to deliberate on the proposed decisions for agenda items 97 through 114 that were taken under submission during the meeting and to confer with and receive advice from Legal Counsel regarding pending litigation as authorized by Government Code section 11126(e).

The Board reconvened into open session at 11:20 a.m.

PROPOSED DECISIONS

Item 97	CLAIMANT	567907V
The Board voted to adopt the proposed decision.		
Item 98	CLAIMANT	617396V
The Board continued this item to the August 18 meeting.		
Item 99	CLAIMANT	642468V
The Board voted to adopt the proposed decision.		
Item 100	CLAIMANT	678547V
The Board voted to adopt the proposed decision.		
Item 101	CLAIMANT	687365V
The Board voted to adopt the proposed decision.		
Item 102	CLAIMANT	777276V
The Board voted to adopt the proposed decision.		
Item 103	CLAIMANT	785662V
The Board voted to adopt the proposed decision.		
Item 104	CLAIMANT	793679V
The Board voted to adopt the proposed decision.		
Item 105	CLAIMANT	793811V
The Board voted to adopt the proposed decision.		
Item 106	CLAIMANT	806159V
The Board voted to adopt the proposed decision.		
Item 107	CLAIMANT	815233V
The Board voted to adopt the proposed decision.		

Item 108	<u>CLAIMANT</u>	<u>816513V</u>
The Board voted to adopt the proposed decision.		
Item 109	<u>CLAIMANT</u>	<u>819049V</u>
The Board voted to adopt the proposed decision.		
Item 110	<u>CLAIMANT</u>	<u>823764V & 823765V</u>
The Board continued this item to the August 18 meeting.		
Item 111	<u>CLAIMANT</u>	<u>824448V</u>
The Board voted to adopt the proposed decision.		
Item 112	<u>CLAIMANT</u>	<u>826687V</u>
The Board voted to adopt the proposed decision.		
Item 113	<u>CLAIMANT</u>	<u>842907V</u>
The Board continued this item to the August 18 meeting.		
Item 114	<u>CLAIMANT</u>	<u>846750V</u>
The Board voted to adopt the proposed decision.		

ADJOURNMENT

The meeting was adjourned at 11:21 a.m.

KAREN McGAGIN
Executive Officer

I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of _____ at _____, California.

Date: _____ By: _____
Missy Carrick
Board Liaison

(Affix seal here)